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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/099,048 | 06/17/1998 | LAURETTE NACAMULLI | KM39091 | 4803 |

7590 10/23/2002

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EXAMINER

CEPERLEY, MARY

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1641

DATE MAILED: 10/23/2002

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/099,048

Applicant(s)

HAYES ET AL.

Examiner

Mary (Molly) E. Ceperley

Art Unit

1641

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on October 1, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See the attached letter.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See the attached letter.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 37-51 and 53-93.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Mary (Molly) E. Ceperley
Primary Examiner
Art Unit: 1641

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1) An appeal under 37 CFR 1.191 was filed in this application on October 1, 2002. Appellant's brief is due in accordance with 37 CFR 1.192(a).

2) The amendment filed October 1, 2002 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because:

The proposed amendment is not deemed to place the application in better form for appeal by materially simplifying the issues for appeal.

3) The proposed amendment to claim 76 would not overcome the rejections set forth in paragraphs **4)b)** and **5)b)** of the final rejection. The proposed amendment would add process conditions but would still not specify the presence of any reactant. Therefore, the rejections of record as applied to claim 76 and the claims which are dependent from claim 76 would still be valid even with such an amendment. It is additionally noted that the methods of dependent claims 77-93, if interpreted as requiring specific types of reactants (although not required by the actual claim language), would appear to duplicate the scope of the other claims.

4) A newly presented amendment limited to the proposed amendment to claim 37 and adding newly proposed claims 94-96 would be entered.

5) Claim 37 as it was proposed to be amended in the October 1, 2002 response, claims 38-51, 53-75, and 94-96 are allowable for the reason stated in applicants' response of October 1, 2002 at page 16, first full paragraph through page 17, first full paragraph. However, it is noted that a copy of the Atkins reference cited at page 16 of the response has not been provided to the examiner.

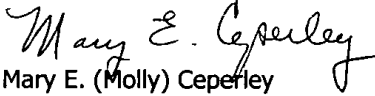
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6) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary E. (Molly) Ceperley whose telephone number is (703) 308-4239. The examiner can normally be reached from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, can be reached at (703) 305-3399. The fax phone number for responses to be filed BEFORE final rejection is (703) 872-9306. The fax phone number for responses to be filed AFTER final rejection is (703) 872-9307.

Questions which are NOT RELATED TO THE EXAMINATION ON THE MERITS, should be directed to **TC 1600 CUSTOMER SERVICE at (703) 308-0198**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

October 22, 2002


Mary E. (Molly) Ceperley
Primary Examiner
Art Unit 1641